

AMENDED IN ASSEMBLY APRIL 27, 2005

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1765

**Introduced by Committee on Revenue and Taxation (Klehs
(Chair), Canciamilla, DeVore, Jones, and Lieber)**

March 17, 2005

An act to amend Section 16302.1 of the Government Code, and to amend Sections 6479.3, 7659.9, 8760, 9405, 9407, 9411, 9420, 9432, 30180, 30190, 30283, 32260, 40067, 41060, 43170, 45160, 46160, 50112.7, 55050, 60043, 60250, and 60603 of, *and to repeal Sections 38203.5 and 38907 of* the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1765, as amended, Committee on Revenue and Taxation. State Board of Equalization: tax administration.

~~(1) Existing law authorizes a state agency, in accordance with rules and regulations adopted by the State Board of Control, to dispose of overpayments of taxes, fees, penalties, or interest in an amount of \$10 or less by, either applying the overpayment to other accounts of the payee that are administered by that agency or, upon approval of the Controller, depositing the overpayment into the appropriate revenue fund for which the overpayment was made.~~

~~This bill would apply these provisions to overpayments in an amount of \$20, or less.~~

~~(2)–~~

~~(1) Existing law requires the State Board of Equalization to administer various tax and fee programs, including taxes and fees~~

imposed upon the sale of fuel, including diesel fuel. Existing law authorizes the board, as a party to the International Fuel Tax Agreement (IFTA), to enter into reciprocal agreements with other states for the administration, collection, and enforcement of taxes imposed upon motor fuels that are due and payable to this state.

This bill would make technical changes to some of the IFTA-related provisions, including clarifying the documents that constitute the International Fuel Tax Agreement.

~~(3)–~~

(2) Existing law requires the board to administer taxes and fees imposed upon cigarettes and tobacco products. Existing law generally requires licensed cigarette distributors to purchase and affix an appropriate stamp to, or make an appropriate meter impression upon, each package of cigarettes prior to distribution, and provides specified penalties for failure to comply with these requirements. Existing law provides that these penalties do not apply if the failure to comply is part of the taxpayer's overall failure to pay and report taxes that is subject to a separate, but related collection action by the board.

This bill would amend these provisions by making technical changes to delete obsolete references and to conform to provisions of existing law.

~~(4)–~~

(3) The Diesel Fuel Tax Law requires all government entities that operate diesel-powered highway vehicles in this state to obtain a diesel fuel tax license and to file monthly diesel fuel tax returns for purchases of diesel fuel for which the diesel tax was not paid or collected at the time of purchase.

This bill would exempt from these requirements government entities that only purchase diesel fuel from vendors that have paid or collected the diesel tax at the time of, or prior to, the sale of the diesel fuel to that government entity. This bill would also make a technical clarifying change to the Diesel Fuel Tax Law.

~~(5)–~~

(4) The Sales and Use Tax Law, the Vehicle Fuel License Tax Law, the Use Fuel Tax Law, the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Energy Resources Surcharge Law, the Emergency Telephone Users Surcharge Act, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, the Fee Collection

Procedures Law, and the Diesel Fuel Tax Law provide that any person whose estimated tax or fee liability under those laws averages less than \$20,000 per month may elect to remit amounts due by electronic funds transfer. The election is required to be operative for a minimum of one year.

This bill would delete the requirement that the election be operative for a minimum of one year.

(5) The Timber Yield Tax Law, for the 1977-78 fiscal year and each fiscal year thereafter, imposes a tax on every timber owner with respect to the harvesting of timber or felled or downed timber at specified rates. The Timber Yield Tax Law disallows, subject to certain exceptions, any adjustment of yield tax rates for the years 1979, 1980, or 1981 to reflect any portion of the property tax rate levied on the unsecured roll for the 1978-79 tax year, as provided, and requires that the Controller certify for a specified period the amount necessary to restore the deficient allocations, plus the amount necessary to bring the Timber Tax Reserve Fund to \$5,000,000. The specific provisions of that law providing for the restoration of any deficient allocations for the Timber Tax Reserve Fund however, were previously repealed.

This bill would delete these obsolete provisions relating to the adjustment of yield tax rates for 1979, 1980, and 1981, and the certification by the Controller of the amount necessary to restore certain deficient allocations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 16302.1 of the Government Code is~~
2 ~~amended to read:~~
3 ~~16302.1. Whenever any person pays to any state agency~~
4 ~~pursuant to law an amount covering taxes, penalties, interest,~~
5 ~~license or other fees, or any other payment, and it is subsequently~~
6 ~~determined by the state agency responsible for the collection~~
7 ~~thereof that this amount includes an overpayment of twenty~~
8 ~~dollars (\$20) or less of the amount due the state pursuant to the~~
9 ~~assessment, levy, or charge to which the payment is applicable,~~
10 ~~the amount of the overpayment may be disposed of in either of~~
11 ~~the following ways:~~

1 ~~(a) The state agency responsible for the collection to which the~~
2 ~~overpayment relates may apply the amount of the overpayment~~
3 ~~as a payment by the person on any other taxes, penalties, interest,~~
4 ~~license or other fees, or any other amount due the state from that~~
5 ~~person if the state agency is responsible by law for the collection~~
6 ~~to which the overpayment is to be applied as a payment.~~

7 ~~(b) Upon written request of the state agency responsible for~~
8 ~~the collection to which the overpayment relates, the amount of~~
9 ~~the overpayment shall, on order of the Controller, be deposited as~~
10 ~~revenue in the fund in the State Treasury into which the~~
11 ~~collection, exclusive of overpayments, is required by law to be~~
12 ~~deposited.~~

13 ~~The State Board of Control may adopt rules and regulations to~~
14 ~~permit state agencies to retain these overpayments where a~~
15 ~~demand for refund permitted by law is not made within six~~
16 ~~months after the refund becomes due, and the retained~~
17 ~~overpayments shall belong to the state.~~

18 ~~Except as provided in the foregoing paragraph, this section~~
19 ~~shall not affect the right of any person making overpayment of~~
20 ~~any amount to the state to make a claim for refund of the~~
21 ~~overpayment, nor the authority of any state agency or official to~~
22 ~~make payment of any amount so claimed, if otherwise authorized~~
23 ~~by law.~~

24 ~~SEC. 2.~~

25 ~~SECTION 1.~~ Section 6479.3 of the Revenue and Taxation
26 Code is amended to read:

27 6479.3. (a) Any person whose estimated tax liability under
28 this part averages twenty thousand dollars (\$20,000) or more per
29 month, as determined by the board pursuant to methods of
30 calculation prescribed by the board, shall remit amounts due by
31 an electronic funds transfer under procedures prescribed by the
32 board. Any person who collects use tax on a voluntary basis is
33 not required to remit amounts due by electronic funds transfer.

34 (b) Any person whose estimated tax liability under this part
35 averages less than twenty thousand dollars (\$20,000) per month
36 or any person who voluntarily collects use tax may elect to remit
37 amounts due by electronic funds transfer with the approval of the
38 board.

39 (c) Any person remitting amounts due pursuant to subdivision
40 (a) or (b) shall perform electronic funds transfer in compliance

1 with the due dates set forth in Article 1 (commencing with
2 Section 6451) and Article 1.1 (commencing with Section 6470).
3 Payment is deemed complete on the date the electronic funds
4 transfer is initiated, if settlement to the state's demand account
5 occurs on or before the banking day following the date the
6 transfer is initiated. If settlement to the state's demand account
7 does not occur on or before the banking day following the date
8 the transfer is initiated, payment is deemed to occur on the date
9 settlement occurs.

10 (d) Any person remitting taxes by electronic funds transfer
11 shall, on or before the due date of the remittance, file a return for
12 the preceding reporting period in the form and manner prescribed
13 by the board. Any person who fails to timely file the required
14 return shall pay a penalty of 10 percent of the amount of taxes,
15 exclusive of prepayments, with respect to the period for which
16 the return is required.

17 (e) (1) Except as provided in paragraph (2), any person
18 required to remit taxes pursuant to this article who remits those
19 taxes by means other than appropriate electronic funds transfer
20 shall pay a penalty of 10 percent of the taxes incorrectly remitted.

21 (2) A person required to remit prepayments pursuant to this
22 article who remits a prepayment by means other than an
23 appropriate electronic funds transfer shall pay a penalty of 6
24 percent of the prepayment amount incorrectly remitted.

25 (f) Except as provided in Sections 6476 and 6477, any person
26 who fails to pay any tax to the state or any amount of tax
27 required to be collected and paid to the state, except amounts of
28 determinations made by the board under Article 2 (commencing
29 with Section 6481) or Article 3 (commencing with Section
30 6511), within the time required shall pay a penalty of 10 percent
31 of the tax or amount of tax, in addition to the tax or amount of
32 tax, plus interest at the modified adjusted rate per month, or
33 fraction thereof, established pursuant to Section 6591.5, from the
34 date on which the tax or the amount of tax required to be
35 collected became due and payable to the state until the date of
36 payment.

37 (g) In determining whether a person's estimated tax liability
38 averages twenty thousand dollars (\$20,000) or more per month,
39 the board may consider tax returns filed pursuant to this part and
40 any other information in the board's possession.

(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

(j) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

~~SEC. 3.~~

SEC. 2. Section 7659.9 of the Revenue and Taxation Code is amended to read:

7659.9. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform an electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 7651) and Article 1.1 (commencing with Section 7659). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed

1 by the board. Any person who fails to timely file the required
2 return shall pay a penalty of 10 percent of the amount of taxes,
3 exclusive of prepayments, with respect to the period for which
4 the return is required.

5 (e) (1) Except as provided in paragraph (2), any person
6 required to remit taxes pursuant to this article who remits those
7 taxes by means other than appropriate electronic funds transfer
8 shall pay a penalty of 10 percent of the taxes incorrectly remitted.

9 (2) A person required to remit prepayments pursuant to this
10 article who remits a prepayment by means other than an
11 appropriate electronic funds transfer shall pay a penalty of 6
12 percent of the prepayment incorrectly remitted.

13 (f) Except as provided by Sections 7659.5 and 7659.6, any
14 person who fails to pay any tax to the state or any amount of tax
15 required to be paid to the state, except amounts of determinations
16 made by the board under Article 2 (commencing with Section
17 7660) or Article 2.5 (commencing with Section 7670), within the
18 time required shall pay a penalty of 10 percent of the tax or
19 amount of tax, in addition to the tax or amount of tax, plus
20 interest at the modified adjusted rate per month, or fraction
21 thereof, established pursuant to Section 6591.5, from the date on
22 which the tax or the amount of tax required to be paid became
23 due and payable to the state until the date of payment.

24 (g) In determining whether a person's estimated tax liability
25 averages twenty thousand dollars (\$20,000) or more per month,
26 the board may consider tax returns filed pursuant to this part and
27 any other information in the board's possession.

28 (h) Except as provided in subdivision (i), the penalties
29 imposed by subdivisions (d), (e), and (f) shall be limited to a
30 maximum of 10 percent of the taxes due, exclusive of
31 prepayments, for any one return. Any person remitting taxes by
32 electronic funds transfer shall be subject to the penalties under
33 this section and not Section 7655.

34 (i) The penalties imposed with respect to paragraph (2) of
35 subdivision (e) and Sections 7659.5 and 7659.6 shall be limited
36 to a maximum of 6 percent of the prepayment amount.

37 (j) The board shall promulgate regulations pursuant to Chapter
38 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
39 Title 2 of the Government Code for purposes of implementing
40 this section.

1 ~~SEC. 4.~~

2 *SEC. 3.* Section 8760 of the Revenue and Taxation Code is
3 amended to read:

4 8760. (a) Any person whose estimated tax liability under this
5 part averages twenty thousand dollars (\$20,000) or more per
6 month, as determined by the board pursuant to methods of
7 calculation prescribed by the board, shall remit amounts due by
8 an electronic funds transfer under procedures prescribed by the
9 board.

10 (b) Any person whose estimated tax liability under this part
11 averages less than twenty thousand dollars (\$20,000) per month
12 may elect to remit amounts due by electronic funds transfer with
13 the approval of the board.

14 (c) Any person remitting amounts due pursuant to subdivision
15 (a) or (b) shall perform electronic funds transfer in compliance
16 with the due dates set forth in Article 1 (commencing with
17 Section 8751). Payment is deemed complete on the date the
18 electronic funds transfer is initiated, if settlement to the state's
19 demand account occurs on or before the banking day following
20 the date the transfer is initiated. If settlement to the state's
21 demand account does not occur on or before the banking day
22 following the date the transfer is initiated, payment is deemed to
23 occur on the date settlement occurs.

24 (d) Any person remitting taxes by electronic funds transfer
25 shall, on or before the due date of the remittance, file a return for
26 the preceding reporting period in the form and manner prescribed
27 by the board. Any person who fails to timely file the required
28 return shall pay a penalty of 10 percent of the amount of taxes
29 with respect to the period for which the return is required.

30 (e) Any person required to remit taxes pursuant to this article
31 who remits those taxes by means other than appropriate
32 electronic funds transfer shall pay a penalty of 10 percent of the
33 taxes incorrectly remitted.

34 (f) Any person who fails to pay any tax to the state or any
35 amount of tax required to be collected and paid to the state,
36 except amounts of determinations made by the board under
37 Article 2 (commencing with Section 8776) or Article 3
38 (commencing with Section 8801), within the time required shall
39 pay a penalty of 10 percent of the tax or amount of tax, in
40 addition to the tax or amount of tax, plus interest at the modified

1 adjusted rate per month, or fraction thereof, established pursuant
2 to Section 6591.5, from the date on which the tax became due
3 and payable to the state until the date of payment.

4 (g) In determining whether a person's estimated tax liability
5 averages twenty thousand dollars (\$20,000) or more per month,
6 the board may consider tax returns filed pursuant to this part and
7 any other information in the board's possession.

8 (h) The penalties imposed by subdivisions (d), (e), and (f)
9 shall be limited to a maximum of 10 percent of the taxes due for
10 any one return. Any person remitting taxes by electronic funds
11 transfer shall be subject to the penalties under this section and not
12 Section 8876.

13 (i) The board shall promulgate regulations pursuant to Chapter
14 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
15 Title 2 of the Government Code for purposes of implementing
16 this section.

17 ~~SEC. 5.~~

18 *SEC. 4.* Section 9405 of the Revenue and Taxation Code is
19 amended to read:

20 9405. This chapter shall be administered in conjunction with
21 the IFTA, the Use Fuel Tax Law (Part 3 (commencing with
22 Section 8601)), and the Diesel Fuel Tax Law (Part 31
23 (commencing with Section 60001)). Whenever the Use Fuel Tax
24 Law or the Diesel Fuel Tax Law is inconsistent with the IFTA or
25 this chapter, the IFTA or this chapter shall prevail except where
26 prohibited by the California Constitution or United States
27 Constitution.

28 ~~SEC. 6.~~

29 *SEC. 5.* Section 9407 of the Revenue and Taxation Code is
30 amended to read:

31 9407. (a) The IFTA, for the purposes of this chapter, may be
32 used to:

33 (1) Determine the base state jurisdiction for motor carriers
34 engaged in interstate commerce.

35 (2) Impose recordkeeping requirements.

36 (3) Specify audit procedures.

37 (4) Establish procedures for the exchange of information.

38 (5) Identify interstate motor carriers.

39 (6) Define motor vehicles and fuels subject to the provisions
40 of the agreement.

1 (7) Determine bond requirements.

2 (8) Specify reporting requirements, due dates of returns,
3 interest and penalty rates, and provisions for failure to file
4 returns.

5 (9) Specify methods for collection of taxes, interest, and
6 penalties.

7 (10) Determine methods for the distribution of taxes and
8 interest collected or assessed to the appropriate jurisdictions.

9 (11) Deny, suspend, or cancel benefits under the agreement to
10 any interstate motor carrier who violates the provisions of the
11 agreement.

12 (b) The board may adopt regulations to administer the
13 provisions of this chapter.

14 ~~SEC. 7.~~

15 *SEC. 6.* Section 9411 of the Revenue and Taxation Code is
16 amended to read:

17 9411. "IFTA" means the International Fuel Tax Agreement.
18 The International Fuel Tax Agreement consists of the Articles of
19 Agreement, the Procedures Manual, the Audit Manual, as
20 amended from time to time.

21 ~~SEC. 8.~~

22 *SEC. 7.* Section 9420 of the Revenue and Taxation Code is
23 amended to read:

24 9420. Except for trip permits as provided in Sections 8708
25 and 60122, all interstate users who choose to obtain an IFTA
26 license from the board shall apply for a license and secure decals
27 for their vehicles. Application for the license and decals shall be
28 made annually on forms prescribed by the board. The application
29 shall be under oath and shall contain that information as the
30 board deems necessary. Upon receipt of the application, and
31 upon payment of any required reinstatement fee, the board may
32 issue to the applicant a license and decals.

33 The decals issued to the interstate user shall be placed on both
34 exterior sides of the vehicle cab. Failure to display the decals in
35 the required location may subject the interstate user to the
36 purchase of a trip permit. The transfer of decals from one
37 interstate user to another interstate user is prohibited. All decals
38 shall remain the property of the state and may be recalled for any
39 violation of the provisions of the IFTA.

1 A fee to be determined by the board shall be charged for the
2 annual license and a set of two decals issued prior to and during
3 the calendar year that the license and decal is valid. The board
4 may also prescribe procedures and set a fee for the issuance of a
5 30-day IFTA temporary license or replacement decals.

6 ~~SEC. 9.~~

7 *SEC. 8.* Section 9432 of the Revenue and Taxation Code is
8 amended to read:

9 9432. The board shall transmit all moneys received by it
10 under this chapter to the Treasurer to be deposited in the State
11 Treasury. The board in accordance with the Treasurer shall set up
12 a reserve account in the State Treasury to disburse those moneys
13 as needed. After distribution payments to other jurisdictions and
14 refunds authorized by the IFTA, the balance remaining in the
15 reserve account shall be transferred, except as provided in
16 Section 9433, to the Motor Vehicle Fuel Account in the
17 Transportation Tax Fund.

18 ~~SEC. 10.~~

19 *SEC. 9.* Section 30180 of the Revenue and Taxation Code is
20 amended to read:

21 30180. Articles 2 (commencing with Section 30201), 3
22 (commencing with Section 30221), and 4 (commencing with
23 Section 30241) of Chapter 4 and Sections 30185, 30362, and
24 30366 do not apply to amounts due or paid with respect to
25 purchases made of stamps or meter register settings. The
26 remedies of the state provided in Chapter 5 (commencing with
27 Section 30301) and the provisions of Chapter 6 (commencing
28 with Section 30361), except for Sections 30362 and 30366, apply
29 to amounts due or paid with respect to purchases made of stamps
30 or meter register settings.

31 ~~SEC. 11.~~

32 *SEC. 10.* Section 30190 of the Revenue and Taxation Code is
33 amended to read:

34 30190. (a) Any person whose estimated tax liability under
35 this part averages twenty thousand dollars (\$20,000) or more per
36 month, as determined by the board pursuant to methods of
37 calculation prescribed by the board, shall remit amounts due by
38 an electronic funds transfer under procedures prescribed by the
39 board.

1 (b) Any person whose estimated tax liability under this part
2 averages less than twenty thousand dollars (\$20,000) per month
3 may elect to remit amounts due by electronic funds transfer with
4 the approval of the board.

5 (c) Any person remitting amounts due pursuant to subdivision
6 (a) or (b) shall perform electronic funds transfer in compliance
7 with the due dates set forth in Article 1 (commencing with
8 Section 30181). Payment is deemed complete on the date the
9 electronic funds transfer is initiated, if settlement to the state's
10 demand account occurs on or before the banking day following
11 the date the transfer is initiated. If settlement to the state's
12 demand account does not occur on or before the banking day
13 following the date the transfer is initiated, payment is deemed to
14 occur on the date settlement occurs.

15 (d) Any person remitting taxes by electronic funds transfer
16 shall, on or before the due date of the remittance, file a return for
17 the preceding reporting period in the form and manner prescribed
18 by the board. Any person who fails to timely file the required
19 return shall pay a penalty of 10 percent of the amount of taxes
20 with respect to the period for which the return is required.

21 (e) Any person required to remit taxes pursuant to this article
22 who remits those taxes by means other than appropriate
23 electronic funds transfer shall pay a penalty of 10 percent of the
24 taxes incorrectly remitted.

25 (f) Any person who fails to pay any tax to the state or any
26 amount of tax required to be collected and paid to the state,
27 except amounts of determinations made by the board under
28 Article 3 (commencing with Section 30173) or Article 2
29 (commencing with Section 30201) or Article 3 (commencing
30 with Section 30221), within the time required shall pay a penalty
31 of 10 percent of the tax or amount of tax, in addition to the tax or
32 amount of tax, plus interest at the modified adjusted rate per
33 month, or fraction thereof, established pursuant to Section
34 6591.5, from the date on which the tax became due and payable
35 to the state until the date of payment.

36 (g) In determining whether a person's estimated tax liability
37 averages twenty thousand dollars (\$20,000) or more per month,
38 the board may consider tax returns filed pursuant to this part and
39 any other information in the board's possession.

1 (h) The penalties imposed by subdivisions (d), (e), and (f)
2 shall be limited to a maximum of 10 percent of the taxes due for
3 any one return. Any person remitting taxes by electronic funds
4 transfer shall be subject to the penalties under this section and not
5 Section 30281.

6 (i) The board shall promulgate regulations pursuant to Chapter
7 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
8 Title 2 of the Government Code for purposes of implementing
9 this section.

10 ~~SEC. 12.~~

11 *SEC. 11.* Section 30283 of the Revenue and Taxation Code is
12 amended to read:

13 30283. If the board finds that a person's failure to make a
14 timely return or payment was due to a disaster, and occurred
15 notwithstanding the exercise of ordinary care and the absence of
16 willful neglect, the person may be relieved of the interest
17 provided by Sections 30171, 30185, 30190, 30223, and 30281.

18 Any person seeking to be relieved of the interest shall file with
19 the board a statement under penalty of perjury setting forth the
20 facts upon which he or she bases his or her claim for relief.

21 ~~SEC. 13.~~

22 *SEC. 12.* Section 32260 of the Revenue and Taxation Code is
23 amended to read:

24 32260. (a) Any person whose estimated tax liability under
25 this part averages twenty thousand dollars (\$20,000) or more per
26 month, as determined by the board pursuant to methods of
27 calculation prescribed by the board, shall remit amounts due by
28 an electronic funds transfer under procedures prescribed by the
29 board.

30 (b) Any person whose estimated tax liability under this part
31 averages less than twenty thousand dollars (\$20,000) per month
32 may elect to remit amounts due by electronic funds transfer with
33 the approval of the board.

34 (c) Any person remitting amounts due pursuant to subdivision
35 (a) or (b) shall perform electronic funds transfer in compliance
36 with the due dates set forth in Article 1 (commencing with
37 Section 32251). Payment is deemed complete on the date the
38 electronic funds transfer is initiated if settlement to the state's
39 demand account occurs on or before the banking day following
40 the date the transfer is initiated. If settlement to the state's

1 demand account does not occur on or before the banking day
2 following the date the transfer is initiated, payment is deemed to
3 occur on the date settlement occurs.

4 (d) Any person remitting taxes by electronic funds transfer
5 shall, on or before the due date of the remittance, file a return for
6 the preceding reporting period in the form and manner prescribed
7 by the board. Any person who fails to timely file the required
8 return shall pay a penalty of 10 percent of the amount of taxes,
9 with respect to the period for which the return is required.

10 (e) Any person required to remit taxes pursuant to this article
11 who remits those taxes by means other than appropriate
12 electronic funds transfer shall pay a penalty of 10 percent of the
13 taxes incorrectly remitted.

14 (f) Any person who fails to pay any tax to the state or any
15 amount of tax required to be collected and paid to the state,
16 except amounts of determinations made by the board under
17 Article 2 (commencing with Section 32271) or Article 3
18 (commencing with Section 32291), within the time required shall
19 pay a penalty of 10 percent of the tax or amount of tax, in
20 addition to the tax or amount of tax, plus interest at the modified
21 adjusted rate per month, or fraction thereof, established pursuant
22 to Section 6591.5, from the date on which the tax became due
23 and payable to the state until the date of payment.

24 (g) In determining whether a person's estimated tax liability
25 averages twenty thousand dollars (\$20,000) or more per month,
26 the board may consider tax returns filed pursuant to this part and
27 any other information in the board's possession.

28 (h) The penalties imposed by subdivisions (d), (e), and (f)
29 shall be limited to a maximum of 10 percent of the taxes due for
30 any one return. Any person remitting taxes by electronic funds
31 transfer shall be subject to the penalties under this section and not
32 Section 32252.

33 (i) The board shall promulgate regulations pursuant to Chapter
34 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
35 Title 2 of the Government Code for purposes of implementing
36 this section.

37 *SEC. 13. Section 38203.5 of the Revenue and Taxation Code*
38 *is repealed.*

39 ~~38203.5. No adjustment of yield tax rates certified for the~~
40 ~~years 1979, 1980, or 1981 shall be made to reflect any portion of~~

~~the property tax rate levied on the unsecured roll for the 1978-79 tax year, less the rate for voter-approved debt, which is in excess of four dollars (\$4) per one hundred dollars (\$100) of assessed value. The yield tax rate for 1982, however, shall be calculated as if the yield tax rates for those years had been adjusted to reflect the excess property tax rates.~~

SEC. 14. Section 38907 of the Revenue and Taxation Code is repealed.

~~38907. On or before December 2, 1978, and each December 1 each year thereafter to and including December 1, 1981, the Controller shall certify to the State Board of Equalization the amount necessary to restore any deficient allocations as provided for in subdivision (c) of Section 38905, plus the amount needed to bring the current balance of the Timber Tax Reserve Fund up to five million dollars (\$5,000,000).~~

~~SEC. 14.~~

SEC. 15. Section 40067 of the Revenue and Taxation Code is amended to read:

40067. (a) Any person whose estimated surcharge liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated surcharge liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 40051) and Article 2 (commencing with Section 40061). Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting surcharges by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required.

(e) Any person required to remit surcharges pursuant to this article who remits those surcharges by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the surcharges incorrectly remitted.

(f) Any person who fails to pay any surcharge to the state or any amount of surcharge required to be collected and paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 40071) or Article 4 (commencing with Section 40081), within the time required shall pay a penalty of 10 percent of the surcharge or amount of surcharge, in addition to the surcharge or amount of surcharge, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the surcharge or the amount of surcharge required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated surcharge liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the surcharge due for any one return. Any person remitting surcharges by electronic funds transfer shall be subject to the penalties under this section and not Section 40101.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

~~SEC. 15.~~

SEC. 16. Section 41060 of the Revenue and Taxation Code is amended to read:

1 41060. (a) Any person whose estimated surcharge liability
2 under this part averages twenty thousand dollars (\$20,000) or
3 more per month, as determined by the board pursuant to methods
4 of calculation prescribed by the board, shall remit amounts due
5 by an electronic funds transfer under procedures prescribed by
6 the board.

7 (b) Any person whose estimated surcharge liability under this
8 part averages less than twenty thousand dollars (\$20,000) per
9 month may elect to remit amounts due by electronic funds
10 transfer with the approval of the board.

11 (c) Any person remitting amounts due pursuant to subdivision
12 (a) or (b) shall perform electronic funds transfer in compliance
13 with the due dates set forth in Article 1 (commencing with
14 Section 41050). Payment is deemed complete on the date the
15 electronic funds transfer is initiated if settlement to the state's
16 demand account occurs on or before the banking day following
17 the date the transfer is initiated. If settlement to the state's
18 demand account does not occur on or before the banking day
19 following the date the transfer is initiated, payment is deemed to
20 occur on the date settlement occurs.

21 (d) Any person remitting surcharges by electronic funds
22 transfer shall, on or before the due date of the remittance, file a
23 return for the preceding reporting period in the form and manner
24 prescribed by the board. Any person who fails to timely file the
25 required return shall pay a penalty of 10 percent of the amount of
26 the surcharges with respect to the period for which the return is
27 required.

28 (e) Any person required to remit surcharges pursuant to this
29 article who remits those surcharges by means other than
30 appropriate electronic funds transfer shall pay a penalty of 10
31 percent of the surcharges incorrectly remitted.

32 (f) Any person who fails to pay any surcharge to the state or
33 any amount of surcharge required to be collected and paid to the
34 state, except amounts of determinations made by the board under
35 Article 3 (commencing with Section 41070) or Article 4
36 (commencing with Section 41080), within the time required shall
37 pay a penalty of 10 percent of the surcharge or amount of
38 surcharge, in addition to the surcharge or amount of surcharge,
39 plus interest at the modified adjusted rate per month, or fraction
40 thereof, established pursuant to Section 6591.5, from the date on

1 which the surcharge or the amount of surcharge required to be
2 collected became due and payable to the state until the date of
3 payment.

4 (g) In determining whether a person's estimated surcharge
5 liability averages twenty thousand dollars (\$20,000) or more per
6 month, the board may consider returns filed pursuant to this part
7 and any other information in the board's possession.

8 (h) The penalties imposed by subdivisions (d), (e), and (f)
9 shall be limited to a maximum of 10 percent of the surcharges
10 due for any one return. Any person remitting surcharges by
11 electronic funds transfer shall be subject to the penalties under
12 this section and not Section 41095.

13 (i) The board shall promulgate regulations pursuant to Chapter
14 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
15 Title 2 of the Government Code for purposes of implementing
16 this section.

17 ~~SEC. 16.~~

18 *SEC. 17.* Section 43170 of the Revenue and Taxation Code is
19 amended to read:

20 43170. (a) Any person whose estimated tax liability under
21 this part averages twenty thousand dollars (\$20,000) or more per
22 month, as determined by the board pursuant to methods of
23 calculation prescribed by the board, shall remit amounts due by
24 an electronic funds transfer under procedures prescribed by the
25 board.

26 (b) Any person whose estimated tax liability under this part
27 averages less than twenty thousand dollars (\$20,000) per month
28 may elect to remit amounts due by electronic funds transfer with
29 the approval of the board.

30 (c) Any person remitting amounts due pursuant to subdivision
31 (a) or (b) shall perform electronic funds transfer in compliance
32 with the due dates set forth in Article 1 (commencing with
33 Section 43151). Payment is deemed complete on the date the
34 electronic funds transfer is initiated if settlement to the state's
35 demand account occurs on or before the banking day following
36 the date the transfer is initiated. If settlement to the state's
37 demand account does not occur on or before the banking day
38 following the date the transfer is initiated, payment is deemed to
39 occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 43201), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return or prepayment. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 43155.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

~~SEC. 17.~~

SEC. 18. Section 45160 of the Revenue and Taxation Code is amended to read:

45160. (a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of

1 calculation prescribed by the board, shall remit amounts due by
2 an electronic funds transfer under procedures prescribed by the
3 board.

4 (b) Any person whose estimated fee liability under this part
5 averages less than twenty thousand dollars (\$20,000) per month
6 may elect to remit amounts due by electronic funds transfer with
7 the approval of the board.

8 (c) Any person remitting amounts due pursuant to subdivision
9 (a) or (b) shall perform electronic funds transfer in compliance
10 with the due dates set forth in Article 1 (commencing with
11 Section 45151). Payment is deemed complete on the date the
12 electronic funds transfer is initiated if settlement to the state's
13 demand account occurs on or before the banking day following
14 the date the transfer is initiated. If settlement to the state's
15 demand account does not occur on or before the banking day
16 following the date the transfer is initiated, payment is deemed to
17 occur on the date settlement occurs.

18 (d) Any person remitting fees by electronic funds transfer
19 shall, on or before the due date of the remittance, file a return for
20 the preceding reporting period in the form and manner prescribed
21 by the board. Any person who fails to timely file the required
22 return shall pay a penalty of 10 percent of the amount of fees
23 with respect to the period for which the return is required.

24 (e) Any person required to remit fees pursuant to this article
25 who remits those fees by means other than appropriate electronic
26 funds transfer shall pay a penalty of 10 percent of the fees
27 incorrectly remitted.

28 (f) Any person who fails to pay any fee to the state or any
29 amount of fee required to be collected and paid to the state,
30 except amounts of determinations made by the board under
31 Article 2 (commencing with Section 45201), within the time
32 required shall pay a penalty of 10 percent of the fee or amount of
33 fee, in addition to the fee or amount of fee, plus interest at the
34 modified adjusted rate per month, or fraction thereof, established
35 pursuant to Section 6591.5, from the date on which the fee
36 became due and payable to the state until the date of payment.

37 (g) In determining whether a person's estimated fee liability
38 averages twenty thousand dollars (\$20,000) or more per month,
39 the board may consider returns filed pursuant to this part and any
40 other information in the board's possession.

1 (h) The penalties imposed by subdivisions (d), (e), and (f)
2 shall be limited to a maximum of 10 percent of the fees due for
3 any one return. Any person remitting fees by electronic funds
4 transfer shall be subject to the penalties under this section and not
5 Section 45153.

6 (i) The board shall promulgate regulations pursuant to Chapter
7 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
8 Title 2 of the Government Code for purposes of implementing
9 this section.

10 ~~SEC. 18.~~

11 *SEC. 19.* Section 46160 of the Revenue and Taxation Code is
12 amended to read:

13 46160. (a) Any person whose estimated fee liability under
14 this part averages twenty thousand dollars (\$20,000) or more per
15 month, as determined by the board pursuant to methods of
16 calculation prescribed by the board, shall remit amounts due by
17 an electronic funds transfer under procedures prescribed by the
18 board.

19 (b) Any person whose estimated fee liability under this part
20 averages less than twenty thousand dollars (\$20,000) per month
21 may elect to remit amounts due by electronic funds transfer with
22 the approval of the board.

23 (c) Any person remitting amounts due pursuant to subdivision
24 (a) or (b) shall perform electronic funds transfer in compliance
25 with the due dates set forth in Article 1 (commencing with
26 Section 46151). Payment is deemed complete on the date the
27 electronic funds transfer is initiated if settlement to the state's
28 demand account occurs on or before the banking day following
29 the date the transfer is initiated. If settlement to the state's
30 demand account does not occur on or before the banking day
31 following the date the transfer is initiated, payment is deemed to
32 occur on the date settlement occurs.

33 (d) Any person remitting fees by electronic funds transfer
34 shall, on or before the due date of the remittance, file a return for
35 the preceding reporting period in the form and manner prescribed
36 by the board. Any person who fails to timely file the required
37 return shall pay a penalty of 10 percent of the amount of fees
38 with respect to the period for which the return is required.

39 (e) Any person required to remit fees pursuant to this article
40 who remits those fees by means other than appropriate electronic

1 funds transfer shall pay a penalty of 10 percent of the fees
2 incorrectly remitted.

3 (f) Any person who fails to pay any fee to the state or any
4 amount of fee required to be collected and paid to the state,
5 except amounts of determinations made by the board under
6 Article 2 (commencing with Section 46201) or Article 3,
7 (commencing with Section 46251), within the time required shall
8 pay a penalty of 10 percent of the fee or amount of fee, in
9 addition to the fee or amount of fee, plus interest at the modified
10 adjusted rate per month, or fraction thereof, established pursuant
11 to Section 6591.5, from the date on which the fee or the amount
12 of fee required to be collected became due and payable to the
13 state until the date of payment.

14 (g) In determining whether a person's estimated fee liability
15 averages twenty thousand dollars (\$20,000) or more per month,
16 the board may consider returns filed pursuant to this part and any
17 other information in the board's possession.

18 (h) The penalties imposed by subdivisions (d), (e), and (f)
19 shall be limited to a maximum of 10 percent of the fees due for
20 any one return. Any person remitting fees by electronic funds
21 transfer shall be subject to the penalties under this section and not
22 Section 46154.

23 (i) The board shall promulgate regulations pursuant to Chapter
24 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
25 Title 2 of the Government Code for purposes of implementing
26 this section.

27 ~~SEC. 19.~~

28 *SEC. 20.* Section 50112.7 of the Revenue and Taxation Code
29 is amended to read:

30 50112.7. (a) Any person whose estimated fee liability under
31 this part averages twenty thousand dollars (\$20,000) or more per
32 month, as determined by the board pursuant to methods of
33 calculation prescribed by the board, shall remit amounts due by
34 an electronic funds transfer under procedures prescribed by the
35 board.

36 (b) Any person whose estimated fee liability under this part
37 averages less than twenty thousand dollars (\$20,000) per month
38 may elect to remit amounts due by electronic funds transfer with
39 the approval of the board.

1 (c) Any person remitting amounts due pursuant to subdivision
2 (a) or (b) shall perform electronic funds transfer in compliance
3 with the due dates set forth in Article 1 (commencing with
4 Section 50109). Payment is deemed complete on the date the
5 electronic funds transfer is initiated, if settlement to the state's
6 demand account occurs on or before the banking day following
7 the date the transfer is initiated. If settlement to the state's
8 demand account does not occur on or before the banking day
9 following the date the transfer is initiated, payment is deemed to
10 occur on the date settlement occurs.

11 (d) Any person remitting fees by electronic funds transfer
12 shall, on or before the due date of the remittance, file a return for
13 the preceding reporting period in the form and manner prescribed
14 by the board. Any person who fails to timely file the required
15 return shall pay a penalty of 10 percent of the amount of fees,
16 with respect to the period for which the return is required.

17 (e) Any person required to remit fees pursuant to this article
18 who remits those fees by means other than appropriate electronic
19 funds transfer shall pay a penalty of 10 percent of the fees
20 incorrectly remitted.

21 (f) Any person who fails to pay any fee to the state or any
22 amount of fee required to be paid to the state, except amounts of
23 determinations made by the board under Article 2 (commencing
24 with Section 50113) within the time required shall pay a penalty
25 of 10 percent of the fee or amount of fee, in addition to the fee or
26 amount of fee, plus interest at the modified adjusted rate per
27 month, or fraction thereof, established pursuant to Section
28 6591.5, from the date on which the fee or the amount of fee
29 required to be paid became due and payable to the state until the
30 date of payment.

31 (g) In determining whether a person's estimated fee liability
32 averages twenty thousand dollars (\$20,000) or more per month,
33 the board may consider returns filed pursuant to this part and any
34 other information in the board's possession.

35 (h) The penalties imposed by subdivisions (d), (e), and (f)
36 shall be limited to a maximum of 10 percent of the fees due for
37 any one return. Any person remitting fees by electronic funds
38 transfer shall be subject to the penalties under this section and not
39 Section 50112.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

~~SEC. 20.~~

SEC. 21. Section 55050 of the Revenue and Taxation Code is amended to read:

55050. (a) Any person whose estimated fee liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board.

(b) Any person whose estimated fee liability under this part averages less than twenty thousand dollars (\$20,000) per month may elect to remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates prescribed for the payment of the fee. Payment is deemed complete on the date the electronic funds transfer is initiated if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting fees by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of fees, exclusive of prepayments, with respect to the period for which the return is required.

(e) Any person required to remit fees pursuant to this article who remits those fees by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the fees incorrectly remitted.

(f) Any person who fails to pay any fee to the state or any amount of fee required to be collected and paid to the state, except amounts of determinations made by the board under

Article 2 (commencing with Section 55061) within the time required shall pay a penalty of 10 percent of the fee or amount of fee, in addition to the fee or amount of fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of fee required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated fee liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider returns filed pursuant to this part and any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the fees due, exclusive of prepayments, for any one return. Any person remitting fees by electronic funds transfer shall be subject to the penalties under this section and not Section 55042.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

~~SEC. 21.~~

SEC. 22. Section 60043 of the Revenue and Taxation Code is amended to read:

60043. (a) "Government entity" means this state and its political subdivisions except for a political subdivision that is only an exempt bus operator.

(b) Sections 60146 and 60205.5 do not apply to a government entity if both of the following apply:

(1) The diesel fuel is purchased tax-paid from a supplier or retail vendor.

(2) The tax-paid diesel fuel is used solely for the operation of a diesel-powered highway vehicle within this state.

~~SEC. 22.~~

SEC. 23. Section 60250 of the Revenue and Taxation Code is amended to read:

60250. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by

1 an electronic funds transfer under procedures prescribed by the
2 board.

3 (b) Any person whose estimated tax liability under this part
4 averages less than twenty thousand dollars (\$20,000) per month
5 may elect to remit amounts due by electronic funds transfer with
6 the approval of the board.

7 (c) Any person remitting amounts due pursuant to subdivision
8 (a) or (b) shall perform electronic funds transfer in compliance
9 with the due dates set forth in Article 1 (commencing with
10 Section 60201). Payment is deemed complete on the date the
11 electronic funds transfer is initiated if settlement to the state's
12 demand account occurs on or before the banking day following
13 the date the transfer is initiated. If settlement to the state's
14 demand account does not occur on or before the banking day
15 following the date the transfer is initiated, payment is deemed to
16 occur on the date settlement occurs.

17 (d) Any person remitting taxes by electronic funds transfer
18 shall, on or before the due date of the remittance, file a return for
19 the preceding reporting period in the form and manner prescribed
20 by the board. Any person who fails to timely file the required
21 return shall pay a penalty of 10 percent of the amount of taxes
22 with respect to the period for which the return is required.

23 (e) Any person required to remit taxes pursuant to this article
24 who remits those taxes by means other than appropriate
25 electronic funds transfer shall pay a penalty of 10 percent of the
26 taxes incorrectly remitted.

27 (f) Any person who fails to pay any tax to the state or any
28 amount of tax required to be collected and paid to the state,
29 except amounts of determinations made by the board under
30 Article 2 (commencing with Section 60301) or Article 3
31 (commencing with Section 60310), within the time required shall
32 pay a penalty of 10 percent of the tax or amount of tax, in
33 addition to the tax or amount of tax, plus interest at the modified
34 adjusted rate per month, or fraction thereof, established pursuant
35 to Section 6591.5, from the date on which the tax became due
36 and payable to the state until the date of payment.

37 (g) In determining whether a person's estimated tax liability
38 averages twenty thousand dollars (\$20,000) or more per month,
39 the board may consider tax returns filed pursuant to this part and
40 any other information in the board's possession.

(h) The penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 60207.

(i) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

~~SEC. 23.~~

SEC. 24. Section 60603 of the Revenue and Taxation Code is amended to read:

60603. (a) Officers or employees of the state, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized to enter any place and to conduct inspections in accordance with paragraphs (1) to (6), inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which taxable diesel fuel is (or may be) produced or stored or at any inspection site where evidence of activities involving evasion may be discovered. These places may include, but are not limited to, any terminal, any diesel fuel storage facility that is not a terminal, any retail diesel fuel facility, or any designated inspection site.

(3) A designated inspection site is any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the state or the Internal Revenue Service to be used as a diesel fuel inspection site. A designated inspection site shall be identified as a diesel fuel inspection site.

(4) Officers or employees may physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of diesel fuel, diesel fuel dyes, or diesel fuel markers. Inspection may also be made of any equipment used for, or in connection with, production, storage, or transportation of diesel fuel, diesel fuel dyes, or diesel fuel markers. This includes any equipment

1 used for the dyeing or marking of diesel fuel. This includes the
2 books and records kept to determine tax liability.

3 (5) Officers or employees may detain any vehicle, train, or
4 vessel for the purpose of inspecting its fuel tanks and storage
5 tanks. Detainment will be either on the premises under inspection
6 or at a designated inspection site. Detainment may continue for a
7 reasonable period of time as is necessary to determine the
8 amount and composition of the diesel fuel.

9 (6) Officers or employees may take and remove samples of
10 diesel fuel in reasonable quantities as necessary to determine its
11 composition.

12 (b) Any person that refuses to allow an inspection may be
13 fined one thousand dollars (\$1,000) for each refusal. This penalty
14 is in addition to any other penalty or tax that may be imposed
15 upon that person or any other person liable for tax or penalty.